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Federal Communications Commission

445 12th St., S.W.

Washington, D.C. 20554

RE: Public Notice on Broadband Needs in Education

Thank you for the opportunity to comment on the Public Notice on Broadband needs in education, and specifically on the E-Rate program. Oneida-Herkimer-Madison BOCES serves 24 school districts in a three county area of Central New York State. This region is largely rural, with varying degrees of broadband access and for many of the residents the school is the heart of the community. Additionally, our largest district is a small city, designated as a national refugee center and serving students representing over 41 different native languages. The demographics of this district in particular make it a high poverty district.

The OHM BOCES and component school districts rely heavily on the E-rate program to support telecommunications access. The BOCES, on behalf of the component districts, receives anywhere from \$350, 000 to \$500,000 for priority one Telecommunications and Internet Access each year. Many component districts also rely on E-rate for this funding, either through direct funds or through services offered by the Mohawk Regional Information Center. Additionally, our small city district receives Priority 2 funding for Internal Connections and maintenance on Internal Connections. Even with the funding currently received, districts are struggling to maintain, let alone increase, bandwidth and telecommunications access.

The following is in response to specific aspects of the broadband plan that would impact the E-rate program. We do not support any modifications that would decrease current funding available to the schools or divert that to other areas.

1. Issue 11.d. (p. 6) – E-Rate Modification

The FCC seeks comments on any legislative changes that would expand the classes of eligible users. Specifically, what would be the impact of modifying the statute to permit colleges, community colleges, pre-kindergarten, Head Start or other entities to participate in the E-Rate program?

There should be no consideration of expanding the classes of eligible entities until current needs of schools and libraries are met. Expanding E-Rate to other entities would be devastating to the program without 1) a massive increase in the funding cap to address current unmet needs, 2) resolution of multiple administrative and statutory barriers, and 3) a permanent waiver of E-Rate from the Anti-Deficiency Act.

- The current cap of \$2.25 billion has not been increased or indexed to inflation since the program's inception. Current applications from libraries and schools already exceed availability, and that does not take into account those districts that forgo applying for full benefits (such as Priority 2, Internal connections: wiring, hubs, switches, some types of servers) because it is well known that funding is insufficient. For example, in the three county area served by Oneida-Herkimer-Madison BOCES, only one district files for Priority 2

applications, and even then has not met the cut-off for discount rate in several years. Without the Internal Connections funding, schools struggle to make the best use of the broadband access to the school. Nationally, for the 2005 funding year alone, almost 39,000 applications were submitted by schools, libraries, or consortia for discounts. Discounts requested totaled an estimated \$3.65 billion. There should be no consideration of expanding the classes of eligible entities until current needs of schools and libraries are met.

- Expanding E-Rate to other entities can lead to duplicative means testing, installation, administration, and services in communities already served by school and libraries. Enhancing upon existing services in schools and libraries can foster collaboration among school and community providers, thereby meeting the goals that expanding the classes of eligible users might achieve (providing services to the larger community, including adults in need of technology training and continuing education, and children birth through kindergarten entry). An example of how this already occurs in my community is evident in the community education classes offered by the BOCES and component school districts.
- E-Rate administration already is hampered by application of the Anti-Deficiency Act (ADA), which jeopardizes the timely notification of E-Rate commitments. In 2004, the Federal Communications Commission ruled that the program was subject to the ADA, effectively suspending the issuance of funding commitment decision letters that school districts rely on to plan for their technology services. A series of temporary exemptions from the ADA combined with accumulation of rollover funds have mitigated the impact of the law for the last few years. Without a permanent waiver of E-Rate from the ADA, however, other entities will be discouraged from participating. Further, expanding eligible entities will overwhelm the capacity of rollover funds to mitigate the impact. In 2004, funding commitment decisions were delayed to such a degree that commitment for a large scale Priority 2 application did not come through until the following school year. This wreaks havoc on budget and planning, not to mention possible coordination with capital projects.

2. [Issue 13.a. \(p. 8\)](#) - E-Rate Funding

To what extent does the annual E-Rate funding cap of \$2.25 billion limit the extent of broadband deployment by eligible schools and libraries? What are the financial or programmatic implications of increasing the cap to fund additional services not currently covered by E-Rate? What are the implications of indexing the cap to inflation? Would there be specific implementation issues that would arise related to such changes?

An increase in the E-Rate funding cap is essential to address existing unmet needs among schools and libraries, but should not fund additional services until current needs are met.

- The current cap of \$2.25 billion has not been increased or indexed to inflation since the program's inception. Current applications from libraries and schools already exceed availability (\$4 billion), and that does not take into account those districts that forgo applying for full benefits (such as Priority 2, Internal connections: wiring, hubs, switches, some types of servers) because funding has been stagnant, and in fact may have lost value due to inflation. This has had a chilling effect on broadband deployment and innovation my districts.
- Consideration of increasing the cap must take into account the impact on the telecommunications industry and **must continue to be dedicated to existing eligible entities, that is, libraries and schools.** E-Rate discounts are funded by contributions by

telecommunications companies (about 3500) based on interstate and intrastate revenues from sales to end users. The economic downturn has impacted the telecommunications industry and the contribution factor for E-Rate. Therefore, it is unrealistic to assume that a sustainable cap increase can also support additional eligible entities.

3. Issue 13.g. (p. 8) – Coordination with Other State or Federal Grants

Coordination with federal or state agencies on grant programs that could supplement the Commission E-Rate Program...Enhancing Education through Technology State Program (Ed Tech).

While the Ed Tech program received a one-time funding boost of \$650 million in economic stimulus funding, it is slated for a 62% funding cut in FY 2010 appropriations. Unless there is a substantial increase in funding for the Ed Tech program, additional uses should not be added and it should not be considered or treated as supplemental to the E-Rate program. Schools need to have sustained sources of funding for broadband access and cannot rely on grants that may or may not be funded from year to year.

4. Issue 13.h (p. 8) – Coordination with Other Funds

Alternatively, E-Rate funds could be used in conjunction with funds from other entities to support broadband projects...Are there other specific ways the Commission could better leverage the benefits of E-Rate funding through coordination with other federal, state, local or non-profit programs that seek to advance broadband deployment?

Coordination of E-Rate should in no way diminish the role of schools and libraries in determining and addressing local community needs and services.

- Access to broadband varies among and within states and communities. Local decision makers are best able to understand and address these needs. The Commission should refrain from attempting to “leverage” E-Rate funding in ways that undermine the authority of schools and libraries.

Again, thank you for the opportunity to comment on the Public Notice on broadband needs in education, and specifically on the E-Rate program.

Sincerely,

A handwritten signature in blue ink, appearing to read "Howard D. Mettelman".

Howard D. Mettelman
District Superintendent